IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.18 OF 2005
IN
EXECUTION APPLICATION NO.452 OF 2004
IN
REF. NO.438 OF 2002

Puranmal Pasari. ..Plaintiff.
(Prop.Claimant)

V/s.

Nikko Stock Brokers Pvt.Ltd. ..Defendants.
(Defaulter Member) (Org.Respondents)

And

Mrs.Karuna P. Saraf & Ors. ..Applicants.

WITH

CHAMBER SUMMONS NO.19 OF 2005
IN
EXECUTION APPLICATION NO.407 OF 2004
IN
REF. NO.435 OF 2002

Anvik Enterprises. ..Plaintiff.
(Prop.Claimant)

V/s.

Nikko Stock Brokers Pvt.Ltd. ..Defendants.
(Defaulter Member) (Org.Respondents)

And

Mrs.Karuna P. Saraf & Ors. ..Applicants.

AND

CHAMBER SUMMONS NO.20 OF 2005
IN
EXECUTION APPLICATION NO.406 OF 2004
IN
REF. NO.440 OF 2002

Meena Agarwal. ..Plaintiff.
(Prop.Claimant)

V/s.

Nikko Stock Brokers Pvt.Ltd. ..Defendants.
(Defaulter Member) (Org.Respondents)

And

Mrs.Karuna P. Saraf & Ors. ..Applicants.

.....

Mr.Girish Kedia i/b Divya sanghavi for applicant in support of chamber summons.

Ms.Maria Rodrigues i/b Ashwin Ankhad & Co. for applicants.

CORAM: A.M.KHANWILKAR,J

DATE : SEPTEMBER 19, 2005.

P.C. :

1. Heard counsel for the parties. Perused the pleadings.

2. This Chamber Summons is taken out by third party for raising attachment levied in respect of flat No.701 situated at 7th floor in the building known as "Devashish" at Vishnu Baug, S.V.Road, Andheri(West), Mumbai 400 058.

3. Admitted facts as can be discerned from the record are that the award against the defendant private company was passed on 29th October, 2002. It is not in dispute that the flat No.701 referred to above was the personal asset of the Director of the

said company. It is also not in dispute that the said flat has been disposed of in favour of the applicant third party on 13th December, 2002 by Registered Sale Deed. The third party is nowhere connected with the company, against whom award has been passed. Besides, it is not the case of the Judgment Creditor that the said Flat No.701 was offered as a security to the Judgment Creditor at any stage. In this background, as attachment in respect of the said flat has been levied only on 14th December, 2004, which is posterior to the transfer of flat in favour of the applicant, the same cannot be continued in law.

4. Besides, as mentioned earlier, the said flat was personal property of the director of the defendant private limited company. Taking overall view of the matter, the application ought to succeed in terms of prayer clause (a),(b) and (c). As the applicant is not pressing prayer clause (d), no order in that behalf is required.

5. Ordered accordingly.